

# EXHIBIT A

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

- - - - - x  
RITLABS, S.R.L., :  
Plaintiff, :  
vs. :Case No.1:12-cv-00215  
RITLABS, INC., ET AL., :  
Defendants. :  
- - - - - x

June 6, 2012

Alexandria, VA

DEPOSITION OF:

SERGHEI DEMCENKO

called for examination by counsel for the Plaintiff,  
pursuant to notice, taken at the offices of I.S. Law  
Firm, PLLC, 1199 North Fairfax Street, Suite 702,  
Alexandria, Virginia, commencing at 9:55 a.m., before  
Misty Klapper, a Notary Public in and for the  
Commonwealth of Virginia, when were present on behalf  
of the respective parties:

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1 Q. Mr. Demcenko, are you in possession of  
2 documents evidencing your payment of capital to IBIS,  
3 SRL at the formation of the company?

4 A. At the present moment I do not have  
5 documents which can prove my share to the company.

6 Q. Mr. Demcenko, why did you not retain  
7 documents that would prove your contribution of  
8 initial capital to IBIS, SRL?

9 A. I am not saying that I did not save them.  
10 I said that I do not have them right now.

11 Q. If you do not have them right now, are  
12 you able to obtain them?

13 A. If there are certain things that need to  
14 be done in order to obtain them, yes, I can obtain  
15 them and have them.

16 Q. Mr. Demcenko, are you familiar with ALEX,  
17 SRL?

18 A. Yes, I'm familiar with the company ALEX,  
19 SRL.

20 Q. What products or services did ALEX, SRL  
21 sell?

22 A. I don't know what kinds of services or

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1     **products sell ALEX, SRL.**

2             **Q.     Mr. Demcenko, is it accurate that both**  
3     **IBIS, SRL and ALEX, SRL owned 50 percent of RitLabs --**  
4     **excuse me -- of RIT, SRL?**

5             MR. GARDEN:   Objection, lack of  
6     foundation.

7             THE WITNESS:   ALEX, SRL and IBIS, SRL own  
8     50 percent of -- own each 50 percent of RitLabs --  
9     RIT, SRL.

10            BY MR. DI GIACOMO:

11            **Q.     Mr. Demcenko, for clarity of the record**  
12     **you are familiar -- are you familiar with RIT, SRL?**

13            **A.     I am familiar with RIT, SRL.**

14            **Q.     Mr. Demcenko, have you ever in your**  
15     **individual capacity owned shares in RIT, SRL?**

16            **A.     I personally never owned shares of RIT,**  
17     **SRL.**

18            **Q.     Mr. Demcenko, what products and services**  
19     **did RIT, SRL provide or sell?**

20            **A.     RIT, SRL developed hardware and software.**

21            MR. DUBOGRAEV:   Objection to the  
22     translation.

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1 MR. GARDEN: Can we go off the record?

2 MR. DI GIACOMO: Off the record.

3 (Thereupon, a discussion was had off the  
4 record.)

5 THE WITNESS: Development of intellectual  
6 phones, personal computers and different electronic  
7 devices.

8 MR. DI GIACOMO: To clarify for the  
9 record, Mr. Demcenko had stated that RIT, SRL provided  
10 both software and firmware.

11 BY MR. DI GIACOMO:

12 Q. Mr. Demcenko, do you know the specific  
13 names of the products that RIT, SRL sold?

14 A. Yes, DOS Navigator.

15 Q. Was DOS Navigator the only product that  
16 RIT, SRL sold?

17 A. No.

18 Q. What other products or software services  
19 did RIT, SRL sell?

20 A. The Bat!

21 Q. Mr. Demcenko, were there any other  
22 products or services that RIT sold?

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1           A.     Yes, there were.

2           Q.     What were those products?

3           A.     We did specialized versions based on our  
4 products. For example, our mail. It's specialized  
5 version for mail clients for our providers, internet  
6 providers.

7           Q.     And, Mr. Demcenko, were these specialized  
8 versions based on the code of either DOS Navigator or  
9 The Bat!

10          A.     DOS and The Bat! There were specialized  
11 versions of the DOS Navigator and The Bat!

12          Q.     Did you write any of the code of DOS  
13 Navigator?

14          A.     I did not write any code in DOS  
15 Navigator.

16          Q.     Did you write any of the code of The Bat!  
17 at the time that RIT, SRL sold The Bat!

18          A.     No, I did not write code when RIT sold  
19 Bat -- was selling Bat.

20          Q.     Mr. Demcenko, do you know any programming  
21 languages?

22          A.     I know program languages.

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1 Q. Which programming languages, in your  
2 personal opinion, do you feel that you are fluent in?

3 A. Fluent I don't know any languages.

4 Q. Mr. Demcenko, why did RIT, SRL stop  
5 functioning?

6 A. RIT, SRL stopped functioning due to  
7 inability of renewal of the registration of the  
8 company.

9 Q. Why was RIT, SRL, in your lay opinion,  
10 unable to renew its registration as a company?

11 A. Because the founders of ALEX did not  
12 fulfill registration of ALEX.

13 Q. Do you know why they did not fulfill  
14 their registration -- let me strike that.

15 Do you know why the founders of ALEX did  
16 not fulfill their registration requirements for ALEX?

17 A. No, I do not know why the founders of  
18 ALEX did not fulfill their registration  
19 responsibilities for ALEX.

20 Q. Mr. Demcenko, did you resign from RIT,  
21 SRL?

22 A. Yes, I resigned from RIT, SRL.

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1 That clarification has not been provided.

2 BY MR. DI GIACOMO:

3 Q. Mr. Demcenko, I cannot provide you with a  
4 definition of Moldovan law related to property. What  
5 I'm asking you for is your personal lay opinion as to  
6 the definition of property, which your attorney has  
7 now clarified for you that you are capable of  
8 answering without a legal objection.

9 So I'd ask that you provide me with  
10 your -- your personal opinion on whether or not RIT,  
11 SRL owned any property.

12 A. I answered the previous question.

13 MR. GARDEN: Can we go off the record?

14 MR. DI GIACOMO: Sure.

15 (Thereupon, a discussion was had off the  
16 record.)

17 (Thereupon, a brief recess was taken.)

18 BY MR. DI GIACOMO:

19 Q. To re-ask the question prior to break,  
20 Mr. Demcenko, are you -- in your personal opinion, are  
21 you aware of RIT, SRL's ownership of any property?

22 A. Yes, of course. Yes, of course. RIT,



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1 SRL used to own all products that it sold. For  
2 example, The Bat!, DOS Navigator.

3 Q. Mr. Demcenko, are you familiar with  
4 RitLabs, SRL?

5 A. Yes, I am familiar with RitLabs, SRL.

6 Q. Who formed RitLabs, SRL?

7 A. Serghei Demcenko, Maxim Masiutin, Stefan  
8 Tanurkov.

9 Q. In your personal knowledge, when was  
10 RitLabs, SRL formed?

11 A. My opinion? Formal or informal? As  
12 group or as a company?

13 Q. As the physical -- as the business  
14 entity.

15 A. After all participants fulfilled its  
16 obligations.

17 Q. Could you provide me with the year in  
18 which you believe RitLabs, SRL was formed?

19 A. I don't have this information right now  
20 because as of right now I cannot establish when is the  
21 founding capital was established.

22 Q. Mr. Demcenko, did you consult with your

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1 Q. Would it be within your job duties as the  
2 director of the company to have a conversation  
3 concerning the statutory capital with them at that  
4 time?

5 A. Not of course. Not of course. No, until  
6 the company was established we were all equal  
7 partners.

8 Q. Did you have any conversations with  
9 Mr. Masiutin or Mr. Tanurkov concerning the  
10 contribution of statutory capital after the formation  
11 of the company and prior to December 2011?

12 A. I can't recall.

13 Q. Mr. Demcenko, what goods or services does  
14 RitLabs, SRL -- did RitLabs, SRL sell during your time  
15 period with the company?

16 A. RitLabs, SRL was selling program product  
17 The Bat!

18 Q. Could you please list the other products  
19 that RitLabs, SRL sold?

20 A. BatPost! Yes, of course. BatPost!, The  
21 Bat! Security, Courier Electronic.

22 Q. Sorry, Career?

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1           A.       Of course I do.

2           Q.       And what's his position with RitLabs,  
3       SRL?

4           A.       He was the chief accountant.

5           Q.       And did you ever direct Mr. Talmatski to  
6       destroy documents?

7           A.       Never.

8                   (Thereupon, DEM Deposition Exhibit Number  
9                   4 was marked for identification.)

10           BY MR. DI GIACOMO:

11           Q.       Mr. Demcenko, I am handing you a document  
12       that is marked Exhibit DEM4, which purports to be a  
13       trademark application or, excuse me, the U.S. Patent  
14       and Trademark Office data base's content related to an  
15       application for registration of the trademark  
16       MailVoyager. This document shows that MailVoyager was  
17       first used in commerce September 27, 2011 and it lists  
18       as owner of this trademark RitLabs, Inc.

19                   Can you confirm that this is accurate?  
20       Excuse me, the record should reflect that it lists the  
21       applicant and not the owner as RitLabs, Inc.

22                   Mr. Demcenko, are you familiar with this

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1     **trademark filing?**

2             **A.       Yes.**

3             **Q.       Mr. Demcenko, when did RitLabs, Inc.**  
4 **begin using MailVoyager as a trademark?**

5             **A.       From the date stated here.**

6             **Q.       Mr. Demcenko, did any other organizations**  
7 **use MailVoyager as a trademark prior to the date**  
8 **reflected in that application?**

9                     MR. GARDEN:   Objection, calls for  
10 speculation.

11                    MR. DI GIACOMO:   Let me rephrase the  
12 question.   Do you want to reflect the translation  
13 prior to me rephrasing?

14                    THE WITNESS:   Can you ask the question  
15 again?

16                    BY MR. DI GIACOMO:

17             **Q.       Absolutely.   Mr. Demcenko, did RitLabs,**  
18 **SRL use MailVoyager prior to RitLabs, Inc.?**

19             **A.       RitLabs, SRL never used name MailVoyager**  
20 **as a trademark.**

21                    **(Thereupon, DEM Deposition Exhibit Number**  
22 **5 was marked for identification.)**

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1 printout of the waybackmachine, is dated August 4,  
2 2011, which is prior to the date listed in that  
3 application.

4 Do you still maintain that the  
5 MailVoyager mark was first used by RitLabs, Inc. and  
6 that it was first used on September 27, 2011?

7 MR. GARDEN: Objection, the question  
8 calls for a legal term regarding the term -- a legal  
9 conclusion, rather, regarding the term use.

10 BY MR. DI GIACOMO:

11 Q. Mr. Demcenko, I'm simply asking for your  
12 lay opinion with regard to the use of this term.

13 A. We used the name MailVoyager before we  
14 did the first sale and we filed our first trademark  
15 after our first sale.

16 Q. Mr. Demcenko, how did RitLabs, SRL get  
17 the authority to use that term on its website at that  
18 time?

19 A. It was just placed there.

20 Q. And is it accurate to state that there is  
21 a buy now button attached to the side bar on that  
22 page?

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1           A.       Yes, it's a commercial -- it's a  
2 commercial for advertisement of the products.

3           Q.       And, Mr. Demcenko, you stated in your  
4 testimony that if a user was to click on this link --  
5 and I don't want to mischaracterize your testimony, so  
6 make sure you tell me whether I'm accurate -- that  
7 they would be sent to the RitLabs, Inc. website to  
8 purchase that product; is that correct?

9           A.       No, they were to be sent to the Amazon  
10 store to buy this product.

11          Q.       So if a user arrived at ritlabs.com and  
12 clicked on this link on this date, they would be sent  
13 to an Amazon Marketplace store or some Amazon store  
14 selling the product; is that correct?

15          A.       I cannot say for sure because I -- I  
16 don't know which link was there then. But most  
17 likely, yes. And if there is an archive version of  
18 this site, we can see. It could probably go on Amazon  
19 or RitLabs, Incorporated with the advertisement and  
20 offering of our products of RitLabs.

21          Q.       RitLabs, SRL or INC.?

22          A.       RitLabs, SRL.

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1           Q.     Mr. Demcenko, why did RitLabs, SRL place  
2     this button on the ritlabs.com domain name, or, excuse  
3     me, this advertisement would probably be a more  
4     accurate characterization?

5           A.     We didn't have any kind of agreement. We  
6     just placed it there and that's it. It was done by a  
7     webmaster of the company.

8           Q.     Was this --

9           A.     Probably because I direct -- I instructed  
10    him so.

11          Q.     Mr. Demcenko, did you direct your  
12    attorney to file this application for the registration  
13    of MailVoyager? And I'm not asking you for any  
14    conversations that you had with your attorney, just  
15    whether you approved the application for filing.

16               MR. GARDEN: I'm going to object to the  
17    question to the extent it calls for an attorney/client  
18    communication; however, provided you agree that his  
19    response does not waive any attorney/client privilege,  
20    I can agree that he can answer that question.

21               MR. DI GIACOMO: Absolutely, I agree.

22               THE WITNESS: Can you repeat the

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1 my wife, Olga, and the company RitLabs, SRL.

2 BY MR. DI GIACOMO:

3 Q. Mr. Demcenko, what is your percentage of  
4 ownership of RitLabs, Inc.?

5 A. I cannot say the exact percent, but I own  
6 the majority. It's more than 80 percent.

7 Q. Do you know how many shares you own,  
8 Mr. Demcenko?

9 A. No.

10 Q. Prior to the formation of RitLabs, Inc.  
11 did you seek the vote of the members of the general  
12 assembly of RitLabs, SRL for approval of your creation  
13 of that company?

14 MR. DUBOGRAEV: Objection on translation.

15 MR. GARDEN: Off the record.

16 (Thereupon, a discussion was had off the  
17 record.)

18 MR. DI GIACOMO: There was some confusion  
19 on the translation of the last question. For the  
20 record, the question was prior to the formation of  
21 RitLabs, Inc. did you seek the vote of the members of  
22 the general assembly of RitLabs, SRL for approval of



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1 the creation of RitLabs, Inc.

2 The translator reflected that the  
3 term was choice by mistake and we are now asking  
4 her to confirm that it is approval.

5 THE INTERPRETER: Yes, that is correct.  
6 I mean --

7 BY MR. DI GIACOMO:

8 Q. Can you re-ask the question for  
9 Mr. Demcenko?

10 A. Before I formed the company RitLabs, I  
11 did not seek the word from -- from the members of  
12 general assembly of RitLabs, SRL because there is no  
13 necessity for that.

14 Q. Why was there no necessity to seek the  
15 approval of the members of RitLabs, SRL prior to  
16 creating RitLabs, Inc.?

17 A. Because I was creating RitLabs, Inc.  
18 personally as Serghei Demcenko.

19 Q. Do you, in your personal opinion, feel  
20 that there might have been a conflict of interest  
21 creating a company with the same name within the  
22 United States without the participation of your

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1           A.     Yes, it is my signature.

2           Q.     Mr. Demcenko, why did you sign this  
3 agreement on behalf of RitLabs, SRL and not on behalf  
4 of RitLabs, Inc.?

5           A.     Because I signed it on behalf of RitLabs,  
6 SRL because I am a director of RitLabs, SRL.

7           Q.     But you are also the director or CEO of  
8 RitLabs, Inc.; is that correct?

9           A.     Yes.

10          Q.     So why did you not sign this agreement on  
11 behalf of RitLabs, Inc. as well?

12          A.     I figured that that would be better.

13          Q.     Why would that be better?

14          A.     Two sides signed, two companies, they  
15 are.

16          Q.     I'm sorry, could you please rephrase that  
17 answer? I'm not sure I understood.

18                 THE INTERPRETER: Two sides, two  
19 companies they are.

20                 BY MR. DI GIACOMO:

21          Q.     Mr. Demcenko, I'm not understanding your  
22 answer. Could you explain why you did not sign on

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1    **behalf of RitLabs, Inc. as you signed on behalf of**  
2    **RitLabs, SRL?**

3                   MR. GARDEN:   Objection, asked and  
4    answered.

5                   THE WITNESS:   I answered.

6                   BY MR. DI GIACOMO:

7            **Q.     Mr. Demcenko, your answer was two sides**  
8    **signed, two companies, they are. I do not understand**  
9    **that answer. Could you please repeat that in a form**  
10   **that's comprehensible, please?**

11                  MR. GARDEN:   Objection. It's  
12    comprehensible. Please don't argue with the witness.

13                  MR. DI GIACOMO:   Kevin, can we go off the  
14    record?

15                  (Thereupon, a discussion was had off the  
16    record.)

17                  BY MR. DI GIACOMO:

18            **Q.     Mr. Demcenko, were you concerned that**  
19    **there may have been a conflict of interest if you**  
20    **signed on both behalf of RitLabs, SRL and RitLabs,**  
21    **Inc.?**

22            **A.     No, I was not concerned because,**

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1     **according to Moldova law, it is not a problem if there**  
2     **are two companies sign where there's just one person**  
3     **signing for both companies.**

4             MR. DUBOGRAEV: Somewhat of an objection  
5     regarding the translation.

6             (Thereupon, a discussion was had off the  
7             record.)

8             THE WITNESS: That both companies have  
9     the same package of actions and the owner is one  
10    person.

11            MR. GARDEN: Off the record.

12            (Thereupon, a discussion was had off the  
13            record.)

14            THE INTERPRETER: Correction, that both  
15    companies have the same package of shares.

16            BY MR. DI GIACOMO:

17            **Q.     Mr. Demcenko, just to restate your**  
18     **testimony, you stated that you were not concerned**  
19     **because, according to Moldova law, it is not a problem**  
20     **if there are two companies signing when there's just**  
21     **one person signing for both companies.**

22            **By that testimony do you mean to say that**

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1     there is no problem of an interested or -- transaction  
2     or conflict of interest with your nonlegal  
3     understanding of those terms when an individual signs  
4     on behalf of both companies, when the same individual  
5     signs on behalf of both companies -- let me -- strike  
6     that. Let me rephrase the question.

7                     Mr. Demcenko, to restate your testimony,  
8     you stated that you were not concerned about signing  
9     both as a director of RitLabs, SRL and as a CEO of  
10    RitLabs, Inc. because under Moldova law there's not a  
11    problem when the same person signs on behalf of both  
12    companies.

13                    Based on your lay opinion, do you mean to  
14    say by this answer that there is no problem in an  
15    interested transaction or conflict of interest when an  
16    individual signs on behalf of both companies?

17                    A.     First of all, I didn't say that when one  
18    person signs on behalf of both companies. I was  
19    talking about making an agreement between two  
20    companies where the owner is one person. Based on  
21    what I just said, I ask to rephrase the second part of  
22    the question.

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1           Q.       Mr. Demcenko, your answer was no, I was  
2 not concerned because, according to Moldova law, it is  
3 not a problem if there are two companies sign where  
4 there is just one person signing for both companies.  
5 I take that to mean that you stated that there is not  
6 a problem under Moldovan law where one person signs  
7 for both companies.

8                   Is that incorrect?

9           A.       This is not the correct translation.  
10 This is incorrect. I was not saying -- this is not  
11 correct translation or maybe I did not understand  
12 interpreter in a correct way.

13                   I said and I affirm in accordance with  
14 Moldova law, there are not -- there are no limits in  
15 making an agreement between two companies SRL-type,  
16 one owner owns both companies or has control of both  
17 companies.

18           Q.       Just to clarify, Mr. Demcenko, are you  
19 stating that you own 100 percent of RitLabs, SRL and  
20 that you did own 100 percent of RitLabs, SRL at the  
21 time of this license agreement?

22           A.       At this point I think that I own 100

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1     **percent of SRL from information that I have.**

2                   MR. DI GIACOMO: Before you continue with  
3     the translation, if he has addressed any  
4     attorney/client privilege I want to make sure that  
5     it's clear to Mr. Demcenko that he doesn't waive his  
6     right.

7                   MR. GARDEN: Mr. Demcenko, I would just  
8     remind you that any of the communications that you had  
9     between your attorneys is subject to the  
10    attorney/client privilege.

11                  THE WITNESS: You interrupted me in a  
12    question and answer. I don't know. So what?

13                  MR. DI GIACOMO: I believe that he's  
14    answered the question with what he stated thus far.

15                  THE WITNESS: Can I finish my answer?

16                  BY MR. DI GIACOMO:

17                  **Q.     Sure, please.**

18                  **A.     I repeat that at the present time,**  
19    **according to my information, I suppose that I own 100**  
20    **percent shares of the company RitLabs, SRL.**

21                  **Q.     Okay.**

22                  **A.     At the moment of this agreement -- at the**

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1     **moment of the conclusion of this agreement, I did not**  
2     **have such information.**

3                   MR. DI GIACOMO: I think we're going to  
4     take a quick break.

5                   (Thereupon, a brief recess was taken.)

6                   (Thereupon, DEM Deposition Exhibit Number  
7     8 was marked for identification.)

8                   BY MR. DI GIACOMO:

9                   Q.     **Mr. Demcenko, I'm handing you what's been**  
10    **marked as Exhibit DEM8, which purports to be an E-mail**  
11    **that you sent to Mr. Kruglov on September 19th 2011.**

12                   Can you confirm that you've seen this  
13    **E-mail before?**

14                   A.     **Yes, of course.**

15                   Q.     **In this E-mail, Mr. Demcenko, you state**  
16    **concerning your visa that they sent you a second**  
17    **round, demanded a bunch of additional paperwork and**  
18    **employees and that you cannot leave the country for**  
19    **now.**

20                   You also state your conditional status  
21    **has been extended, but the visa had expired and that a**  
22    **new one will be issued no sooner than in two months.**



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1 certain tale to prove your activity in the company.

2 Why did you make that statement?

3 MR. DUBOGRAEV: Objection, translation.

4 MR. SHAHTAKHTINSKI: Go off the record to  
5 correct.

6 (Thereupon, a discussion was had off the  
7 record.)

8 BY MR. DI GIACOMO:

9 Q. Let me rephrase the question. There's  
10 been some discussion off the record that the  
11 translation of this E-mail between Mr. Demcenko and  
12 Mr. Masiutin was incorrect and I want to rephrase the  
13 question based on the correct translation.

14 Mr. Demcenko, in Exhibit DEM12 in front  
15 of you Mr. Masiutin asks you why you need to mention  
16 2001. And then in Exhibit DEM13 in front of you, you  
17 state that the Department of Immigration requires a  
18 certain story to prove your activity in the company.

19 Why did you state that the Department of  
20 Immigration requires a certain story to prove your  
21 activity in the company?

22 A. Firstly, in the letter that I sent I

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1     **stated that I need a story to prove my activities.**

2     **The necessity of this particular document I was**

3     **advised by my immigration lawyer --**

4                   MR. GARDEN: Mr. Demcenko, you don't want  
5     to disclose any substantive communications between you  
6     and your counsel.

7                   THE WITNESS: Well, I was pressed.

8                   BY MR. DI GIACOMO:

9                   **Q. Mr. Demcenko, within your personal**  
10    **opinion and within your personal knowledge and not any**  
11    **advice that you received from your attorney, why did**  
12    **you need to mention the date 2001 and why did you need**  
13    **to provide the Department of Immigration with this**  
14    **story?**

15                   MR. GARDEN: Objection to form.

16                   THE WITNESS: I did what I was advised by  
17    immigration lawyer. I did not take care of my  
18    immigration matters myself. I was -- I did what I was  
19    told by my immigration lawyer. I was told to collect  
20    documents and I did.

21                   MR. GARDEN: You can state that you did  
22    something at the advice of counsel, but I would not

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1 disclose what that advice was.

2 THE WITNESS: I did it on advice of my  
3 lawyer.

4 BY MR. DI GIACOMO:

5 Q. Mr. Demcenko, who is your immigration  
6 attorney?

7 A. Serge Bauer.

8 (Thereupon, DEM Deposition Exhibit Number  
9 14 was marked for identification.)

10 BY MR. DI GIACOMO:

11 Q. Mr. Demcenko, I'm handing you what's been  
12 marked as Exhibit DEM14. This is a subscription  
13 agreement purported to be between RitLabs, Inc. and  
14 RitLabs, SRL, wherein RitLabs, SRL is purported to be  
15 granted 39 shares of RitLabs, Inc.

16 Have you seen this document before?

17 A. Yes.

18 Q. And for the record, I'd like to note that  
19 it is also marked as Tanurkov Exhibit 11.

20 THE INTERPRETER: Interpreter request  
21 clarification. I do not know what a subscription  
22 agreement in this particular context means.

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1 course, sent documents on behalf of RitLabs, Inc. to  
2 immigration department.

3 Q. Did you apply for an L-1A visa?

4 A. Yes, I did apply for LI-1 (sic) visa.

5 Q. What position did you indicate being your  
6 position as -- strike that.

7 What did you indicate as being your  
8 position at RitLabs, Inc. when applying for L-1A?

9 A. CEO.

10 Q. And what percentage of ownership of  
11 RitLabs, Inc. did you indicate in the immigration  
12 papers when you applied for L1-A?

13 A. I indicated 100 percent and also the  
14 amount which was less than 100 percent.

15 Q. Why did you indicate 100 percent if you  
16 told us that you own about 80 percent of RitLabs?

17 A. I said that currently I own 80 percent,  
18 in the very beginning of our questioning.

19 Q. What percentage of RitLabs, Inc. did you  
20 own at the time when you first applied for L1-A visa?

21 A. 100 percent.

22 Q. And when did that change from 100 percent

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1 to about 80 percent?

2 A. When we transferred actions -- when we  
3 transferred shares to RitLabs, SRL and when I  
4 transferred some shares to my wife.

5 Q. Did you transfer those shares after you  
6 obtained L1-A visa or before?

7 A. I transferred them after I obtained it  
8 first time, but before I obtained it the second time.

9 MR. DUBOGRAEV: Objection.

10 MR. GARDEN: Off the record.

11 (Thereupon, a discussion was had off the  
12 record.)

13 BY MR. SHAHTAKHTINSKI:

14 Q. When you first applied for L1-A were you  
15 already in United States?

16 MR. GARDEN: Objection, irrelevant  
17 question.

18 THE WITNESS: When we applied for L1-A we  
19 were not in United States.

20 BY MR. SHAHTAKHTINSKI:

21 Q. Did you -- did your first application for  
22 L1-A visa get approved?

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1 questions because all immigration issues were dealt by  
2 with my attorney. I was just following his advice.

3 (Thereupon, a brief recess was taken.)

4 BY MR. SHAHTAKHTINSKI:

5 **Q. In the forms that you filed or your**  
6 **attorney filed on your behalf with the Immigration**  
7 **Services was there the name of RitLabs, SRL?**

8 MR. GARDEN: Objection, calls for  
9 speculation.

10 THE WITNESS: I cannot tell you exactly  
11 what -- what was in the form and what wasn't. There  
12 was a lot of information.

13 BY MR. SHAHTAKHTINSKI:

14 **Q. Did you have to prove the relationship**  
15 **between RitLabs, SRL and RitLabs, Inc. for purposes of**  
16 **your L1-A visa?**

17 MR. GARDEN: Objection, calls for a legal  
18 conclusion and speculation and on the basis of lack of  
19 foundation.

20 THE WITNESS: Well, in my understanding,  
21 I should have shown the connection between RitLabs,  
22 SRL and RitLabs, Inc.

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1 BY MR. SHAHTAKHTINSKI:

2 Q. And what connection did you show at the  
3 time of your first L1-A application?

4 MR. GARDEN: Objection, lack of  
5 foundation.

6 THE WITNESS: At the time of my -- of my  
7 first application of L1-A, we showed dealership  
8 agreement between RitLabs, Inc. and RitLabs, SRL and  
9 also my involvement and connection with two companies.

10 BY MR. SHAHTAKHTINSKI:

11 Q. And which dealership agreement? Do you  
12 mean subscription agreement?

13 A. License agreement.

14 MR. SHAHTAKHTINSKI: Let the record  
15 reflect that the deponent is referring to Exhibit  
16 DEM7.

17 BY MR. SHAHTAKHTINSKI:

18 Q. Was this licensing agreement one of the  
19 documents which you requested to be backdated?

20 A. I did not ask for any license agreement  
21 that it should be backdated in our conversation.

22 Q. Now, you previously stated that you did

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1     **request some documents to be backdated for immigration**  
2     **purposes, correct?**

3                   MR. GARDEN:  Objection, misstates the  
4     testimony.

5                   THE WITNESS:  It's mistake of my  
6     testimony.  I asked to prepare the general assembly  
7     document in the following context, to give authority  
8     to Serghei Demcenko to represent company abroad with  
9     the right to have negotiations for the organization of  
10    affiliates and branches and to search and attract  
11    investors and finances.

12                   BY MR. SHAHTAKHTINSKI:

13           Q.     **So the document which you requested to be**  
14    **backdated is -- is the decision of the board of**  
15    **directors?**

16           A.     **Yes.**

17           Q.     **And you asked to backdate this document**  
18    **for immigration purposes, correct?**

19           A.     **I asked to provide this document for me**  
20    **so then I could present it to the Immigration Service.**

21           Q.     **Does that mean yes to answering my**  
22    **question?**



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1           A.       Yes. Yes. Which question one more time?

2           Q.       You asked to backdate this document, to  
3       create this document for the purposes of using in your  
4       L1-A application, correct?

5                   MR. GARDEN: Objection, vague.

6                   THE WITNESS: I did not ask to create. I  
7       asked to prepare.

8                   BY MR. SHAHTAKHTINSKI:

9           Q.       What's the difference?

10          A.       The difference is when people create  
11       document, they sign it. When Maxim Masiutin and  
12       Stefan Tanurkov --

13          Q.       You have to wait until the interpreter  
14       finishes the translation.

15          A.       -- signed this document it became  
16       document. They created it. They made it. They made  
17       this document.

18          Q.       And you requested them to create this  
19       document so you can use it in your immigration  
20       process, correct?

21          A.       You do not understand my response  
22       correctly. I asked to prepare given document. They

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1     could have not -- they could not have signed it, then  
2     it would not have been created.

3             Q.     No, that's not an answer to my question.  
4     That's not what I'm asking. I'm asking -- you  
5     asked -- is that true or not, you asked to prepare a  
6     document, backdated document, which you intended to  
7     use for your immigration process? Correct or no?

8             A.     Yes. Correct.

9             Q.     Thank you.

10            And this document was created, correct?

11            A.     This document was created.

12            Q.     Okay. Do you assert that it is a valid  
13     document giving you a right to represent RitLabs,  
14     SRL -- to act -- strike that.

15            Do you represent that this document is a  
16     valid document based on which you can -- you could act  
17     on behalf of RitLabs, SRL in forming -- in formation  
18     of RitLabs, Inc. in United States?

19            MR. GARDEN: Objection, vague, calls for  
20     a legal conclusion.

21            MR. DUBOGRAEV: Objection based on  
22     translation.

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1 Off the record?

2 MR. DI GIACOMO: That's fine.

3 (Thereupon, a discussion was had off the  
4 record.)

5 THE WITNESS: I can say that this  
6 document provides me with the right to have  
7 negotiations in organizations of branches and  
8 affiliates, searches of investments and attractions of  
9 finances and does not give me right to create  
10 affiliates, branches and no other rights.

11 BY MR. SHAHTAKHTINSKI:

12 **Q. How often do you use backdated documents**  
13 **to establish a right to act on behalf of other**  
14 **organizations?**

15 MR. GARDEN: Objection, irrelevant,  
16 intended to intimidate the witness and harassment.

17 THE WITNESS: The meaning of how often  
18 does not have a definition. Yes, I do use sometimes.  
19 I do not see it as violation if some -- some  
20 requirements does not prevent documents from being  
21 created.

22 BY MR. SHAHTAKHTINSKI:

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1 individual reasons to hide any information of RitLabs,  
2 Inc. to RitLabs, SRL, except legal reasons and I never  
3 had ones.

4 BY MR. SHAHTAKHTINSKI:

5 Q. Now, when you applied -- there's  
6 something going on here. When you applied for L1-A  
7 visa or extension, you had to demonstrate that  
8 RitLabs, Inc. is a successful company, correct?

9 MR. GARDEN: Objection, calls for a legal  
10 conclusion.

11 THE INTERPRETER: I missed answer.

12 MR. SHAHTAKHTINSKI: It's okay. You can  
13 ask him to repeat.

14 THE WITNESS: Could you repeat the  
15 question?

16 (The record was read as requested.)

17 THE WITNESS: We have to show documents  
18 proving activity of our company. And if Immigration  
19 Services recognize it as a success, it's their right.  
20 We do not know the criteria.

21 BY MR. SHAHTAKHTINSKI:

22 Q. Now, as part of the application you had

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1 to also demonstrate -- indicate a salary written out  
2 to you, correct?

3 A. Yes, of course.

4 Q. And what was that salary which you  
5 indicated to the Immigration Services?

6 A. I cannot recall, not big one.

7 Q. You don't know your own salary?

8 A. It's not --

9 MR. GARDEN: Objection, argumentative.  
10 That's not the question. You asked -- the second  
11 question you asked is different than the first  
12 question.

13 MR. SHAHTAKHTINSKI: That's why it's a  
14 second question.

15 MR. GARDEN: The way it was stated was  
16 argumentative.

17 You can answer the second question.

18 THE WITNESS: Approximately \$50,000 per  
19 year.

20 BY MR. SHAHTAKHTINSKI:

21 Q. Is that what you are getting paid by  
22 RitLabs, Inc. during the processing of your

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1     **in my head.**

2                   MR. DUBOGRAEV:  Objection based on  
3     translation.

4                   MR. DI GIACOMO:  Let's go off the record.  
5                   (Thereupon, a discussion was had off the  
6                   record.)

7                   BY MR. DI GIACOMO:

8                   **Q.     Mr. Demcenko, you stated that you were**  
9     **developing technology at this time.  How are you**  
10    **developing technology?**

11                  **A.     So I develop a totally new direction of**  
12    **development of products with the objective to bring it**  
13    **to totally different market.  We developed the product**  
14    **MailVoyager.  There was also develop the strategy of**  
15    **realization, of services, personal mail assistant with**  
16    **the use of technology RitLabs, SRL as part of this**  
17    **service.**

18                  **Q.     Mr. Demcenko, is MailVoyager based on**  
19    **code from The Bat!?**

20                  MR. GARDEN:  Objection, vague as to the  
21    word based.

22                  THE WITNESS:  MailVoyager uses code The

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1 Bat!

2 BY MR. DI GIACOMO:

3 Q. Mr. Demcenko, how are you using code from  
4 The Bat! when the license agreement is dated December  
5 2009, the first of December 2009?

6 A. I do not understand question a little  
7 bit. MailVoyager appeared later.

8 Q. Are you stating that MailVoyager appeared  
9 later than September 9, 2008?

10 A. Of course.

11 MR. DUBOGRAEV: Objection.

12 MR. GARDEN: Off the record.

13 (Thereupon, a discussion was had off the  
14 record.)

15 BY MR. DI GIACOMO:

16 Q. You testified that you were developing  
17 technology at this time and then you testified that  
18 you were developing MailVoyager, but your most recent  
19 testimony is that MailVoyager appeared later than  
20 September 9, 2008; is this correct?

21 MR. GARDEN: Objection, vague as to this.

22 THE WITNESS: I said in the first

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1           **Q.     Why have you --**

2           **A.     I did not show.**

3           **Q.     Why have you not produced these documents**  
4 **showing the transfer of this money to your bank**  
5 **account?**

6                   MR. GARDEN:  Objection to the question to  
7 the extent it calls for you to disclose communications  
8 between your attorneys in this matter.  If you can  
9 respond to the question without disclosing the  
10 substance of any communications with your counsel, you  
11 may do so.

12                   THE WITNESS:  By the advice of my  
13 attorney.

14                   BY MR. DI GIACOMO:

15           **Q.     Mr. Demcenko, what is the source of these**  
16 **funds?  Were they funds that RitLabs, SRL earned based**  
17 **on sales by CIF/NET?**

18                   MR. GARDEN:  Objection to form.

19                   MR. DI GIACOMO:  Let me restate the  
20 question.

21                   BY MR. DI GIACOMO:

22           **Q.     Did these funds come from sales of**



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1 RitLabs, SRL's software by CIF/NET?

2 A. This question could be answered by  
3 Yevgeniy Kruglov only.

4 Q. You did not ask where the \$70,000 payment  
5 into your bank account came from?

6 A. Why? From Yevgeniy Kruglov?

7 Q. Yes.

8 A. I knew where it came from, from Yevgeniy  
9 Kruglov, but I do not know what kind of money was sent  
10 by Yevgeniy Kruglov.

11 Q. Mr. Demcenko, you've testified that you  
12 did not return the \$70,000 sent to you by Yevgeniy  
13 Kruglov. Don't you find -- strike that.

14 Mr. Demcenko, you testified that you did  
15 not -- or that you did not return this payment of  
16 \$70,000 received from Yevgeniy Kruglov. Don't you  
17 believe that you should know the source of this amount  
18 of money?

19 MR. GARDEN: Objection, vague and  
20 argumentative.

21 THE WITNESS: I know that the source of  
22 this money is Yevgeniy Kruglov.

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1 BY MR. SHAHTAKHTINSKI:

2 Q. Was it a gift from Yevgeniy Kruglov?

3 A. It could be asked only of Yevgeniy  
4 Kruglov.

5 Q. To your personal knowledge, was it a gift  
6 from Yevgeniy Kruglov?

7 A. I have no knowledge with regard to this  
8 money.

9 Q. My question to you is yes or no or I  
10 don't know.

11 Was this a gift from Yevgeniy Kruglov?

12 MR. GARDEN: Okay. He answered I don't  
13 know. He said I have no knowledge. That means I  
14 don't know.

15 MR. SHAHTAKHTINSKI: He says he has no  
16 knowledge of the source of the funds. I'm talking  
17 about whether it was a gift.

18 BY MR. SHAHTAKHTINSKI:

19 Q. What was the reason Yevgeniy Kruglov paid  
20 you \$70,000? Was it money that he owed to you?

21 MR. GARDEN: Objection to form and calls  
22 for speculation.

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1 THE WITNESS: I said that Yevgeniy  
2 Kruglov offered to put \$70,000 on my account to show  
3 them and then, as needed, will take what I wouldn't be  
4 able to take on my own.

5 BY MR. SHAHTAKHTINSKI:

6 Q. And you never returned that money to  
7 Yevgeniy Kruglov?

8 A. No.

9 MR. GARDEN: Objection, asked and  
10 answered.

11 THE WITNESS: Not so far.

12 BY MR. SHAHTAKHTINSKI:

13 Q. Is this the only money that Yevgeniy  
14 Kruglov transferred to your personal bank account?

15 A. No.

16 Q. To your knowledge, there was no basis why  
17 Yevgeniy Kruglov owed you \$70,000, correct?

18 MR. DUBOGRAEV: Objection.

19 MR. GARDEN: Off the record.

20 (Thereupon, a discussion was had off the  
21 record.)

22 THE WITNESS: I said that I had no reason